

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

The Estate of JOANN MATOUK ROMAIN,
deceased, and MICHELLE MARIE ROMAIN,
in her personal representative capacity
of the Estate,

Plaintiff,

CASE NO.: 4:14-cv-12289

HON. LINDA V. PARKER

v.

MAG. JUDGE STEPHANIE DAWKINS DAVIS

The CITY OF GROSSE POINTE FARMS,
a municipal corporation; et al.

Defendants.

**AFFIDAVIT OF AUDREY J. FORBUSH IN SUPPORT
OF ATTORNEY FEES AND COSTS PER THE COURT'S
RULING ON DEFENDANT, TIMOTHY MATOUK'S, MOTION
FOR SPOILIATION SANCTIONS**

SATE OF MICHIGAN)
) ss
COUNTY OF GENESEE)

Audrey J. Forbush, first being duly sworn, affirms and states as follows:

1. My name is Audrey J. Forbush, and I am counsel of record for
Defendant, Timothy Matouk in the above-entitled cause of action.

2. I have personal knowledge of the facts and circumstances set
forth in this Affidavit, and if called upon, I can testify to these facts and

circumstances which are truthful and accurate to the best of my knowledge, information and belief.

3. On November 22, 2016, Magistrate Judge Stephanie Dawkins Davis issued a Report and Recommendation granting Defendant's Motion for Spoliation Sanctions. As part of that Report and Recommendation [Dkt #252], Magistrate Judge Davis recommended monetary sanctions and held that Mr. Matouk is entitled to an award of reasonable costs, including fees associated with bringing this motion. Defense counsel was directed to submit an affidavit within 14 days of the date of the Court's order, should the Magistrate Judge's recommendation be adopted, verifying the amount of expenses, including attorney fees, incurred by Defendant in bringing this motion.

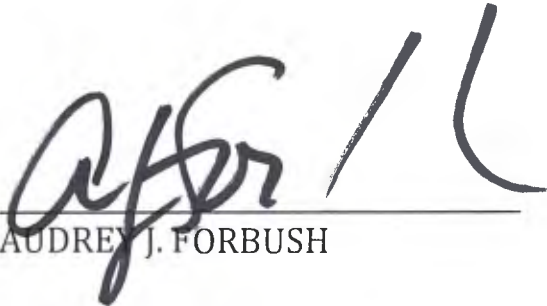
4. On January 6, 2017, this Honorable Court adopted the Report and Recommendation of Magistrate Judge Davis [Dkt #265] and granted Defendant Matouk's Motion for Spoliation Sanctions and imposed the sanctions set forth by Magistrate Judge Davis' Report and Recommendation. This Affidavit is pursuant to that order and is timely filed.

5. I have personally reviewed the billing statements of myself and Josephine DeLorenzo, an associate with the law firm of Plunkett Cooney, with regard to the time spent reviewing this voluminous file, conducting extensive legal research, compiling and drafting the motion for spoliation sanctions, and

can affirm and attest that the attached Exhibit A is a complete and accurate billing statement of the time put forth in the preparation and hearing of the motion at issue. The total for Audrey J. Forbush is 3.6 hours at a rate of \$175.00 per hour, for \$630.00. The total for Joseph DeLorenzo is 37 hours at a rate of \$165 per hour, for \$6,105.00. The total amount of attorney fees is \$6,735.00.

6. These fees were reasonable and necessary as well as accurately stated herein.

Further, Affiant sayeth not.


AUDREY J. FORBUSH

Subscribed and sworn to before me
this 18th day of January, 2017.

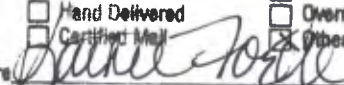


KATHALEEN M. FORDE, Notary Public
State of Michigan, County of Oakland
Acting in Genesee County
My Commission Expires: April 16, 2018

Open.00560.61468.17947034-1

PROOF OF SERVICE
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on 1-18, 2017.

By: ☐ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☒ Other EMAIL

Signature: 

CM/ECF

A



Professional Services Invoice

Michigan Municipal League Liability & Property
Pool
P.O Box 5086
Southfield, MI 48086-5086

11/05/16
Invoice #: 10650143
Thru Date: 10/31/16

Attention: Dianne Winn

Billing Attorney: 0975 - Forbush, Audrey
RE: Romain vs Matouk, et al.

Opposing Party: The Estate of Joann Matouk Romain, (deceased)

Open Date: 05/19/16
Our File: 00560-61468
Your File: 100GL1401605

NEW SETTLEMENT CONFERENCE DATE

Task Subtotal

\$241.00

L240 - DISPOSITIVE MOTIONS

08/01/16	REVIEW/ANALYZE COMPLAINT, MOTION TO DISMISS, AND DEPOSITION TRANSCRIPTS IN PREPARATION FOR WRITING MOTION TO DISMISS BASED ON SPOILIATION OF EVIDENCE.	DeLorenzo, Josephine	4.00	\$165.00	\$660.00
08/04/16	DRAFTING OF MOTION TO DISMISS BASED ON SPOILIATION OF EVIDENCE.	DeLorenzo, Josephine	3.90	\$165.00	\$643.50
08/04/16	RESEARCH SIXTH CIRCUIT CASE LAW ON SPOILIATION SANCTIONS AND SUGGESTIVE LINEUPS.	DeLorenzo, Josephine	3.00	\$165.00	\$495.00
08/05/16	DRAFTING OF MOTION TO DISMISS	DeLorenzo,	5.60	\$165.00	\$924.00

<u>Date</u>	<u>Professional Services</u>	<u>Professional</u>	<u>Hours</u>	<u>Rate</u>	<u>Cost</u>
08/08/16	BASED ON SPOILIATION OF EVIDENCE. REVIEW/ANALYZE AND EDIT MOTION FOR SANCTIONS/DISMISSAL RE SPOILIATION OF EVIDENCE	Josephine Forbush, Audrey	0.60	\$175.00	\$105.00
08/08/16	COMMUNICATE (OTHER OUTSIDE COUNSEL) EMAIL TO PLAINTIFFS' COUNSEL RE CONCURRENCE IN MOTION TO DISMISS PER FRCP	Forbush, Audrey	0.20	\$175.00	\$35.00
08/09/16	PLAINTIFFS) REVIEW/ANALYZE FILE MATERIALS FOR ADDITIONAL EXHIBITS IN SUPPORT OF SPOILIATION SANCTIONS MOTION	Forbush, Audrey	0.40	\$175.00	\$70.00
08/09/16	REVIEW/ANALYZE ADDITIONAL DEPOSITION TESTIMONY FOR USE IN MOTION FOR SPOILIATION SANCTIONS/MOTION TO DISMISS.	DeLorenzo, Josephine	3.80	\$165.00	\$627.00
08/15/16	DRAFTING OF MOTION FOR SPOILIATION SANCTIONS (REVISIONS).	DeLorenzo, Josephine	6.10	\$165.00	\$1,006.50
08/16/16	DRAFTING OF MOTION FOR SPOILIATION SANCTIONS (FINAL REVISIONS AND PROOFING).	DeLorenzo, Josephine	1.10	\$165.00	\$181.50
09/06/16	REVIEW/ANALYZE PLAINTIFF'S CORRECTED RESPONSE TO MOTION FOR SPOILIATION AND/OR DISMISSAL	Forbush, Audrey	0.30	\$175.00	\$52.50
09/06/16	DRAFTING OF REPLY BRIEF IN SUPPORT OF MOTION FOR SPOILIATION SANCTIONS.	DeLorenzo, Josephine	1.50	\$165.00	\$247.50
09/07/16	DRAFTING OF REPLY BRIEF IN SUPPORT OF MOTION FOR SPOILIATION SANCTIONS (CONT'D).	DeLorenzo, Josephine	5.10	\$165.00	\$841.50
09/09/16	DRAFTING OF REPLY BRIEF IN SUPPORT OF MOTION FOR SPOILIATION SANCTIONS (FINAL EDITS AND PROOFING).	DeLorenzo, Josephine	0.30	\$165.00	\$49.50
09/17/16	DRAFTING OF JOINT STATEMENT OF DISPUTED AND UNDISPUTED ISSUES FOR MOTION FOR SPOILIATION	DeLorenzo, Josephine	2.60	\$165.00	\$429.00

<u>Date</u>	<u>Professional Services</u>	<u>Professional</u>	<u>Hours</u>	<u>Rate</u>	<u>Cost</u>
09/19/16	SANCTIONS. DRAFTING OF REVISIONS TO JOINT STATEMENT OF RESOLVED/UNRESOLVED ISSUES	Forbush, Audrey	0.50	\$175.00	\$87.50
10/05/16	BRIEF IN SUPPORT. APPEAR FOR/ATTEND APPEARANCE AT HEARING ON MOTION FOR SPOILIATION SANCTIONS	Forbush, Audrey	1.60	\$175.00	\$280.00